

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13818 of Associated Investors Group, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.44 to use all of the subject premises for SP office use and variances from the side yard requirements (Paragraph 4303.13), the open court width requirements (Sub-section 4305.1) and from the prohibition against allowing required parking spaces to measure less than nine feet by nineteen feet (Sub-section 7204.1) for a proposed addition to an existing structure in an SP-1 District at the premises 1608 New Hampshire Avenue, N.W., (Square 134, Lot 139).

HEARING DATE: September 15, 1982
DECISION DATE: October 6, 1982

FINDINGS OF FACT:

1. The subject site is located on the west side of New Hampshire Avenue between Corcoran and Q Streets, N.W. at premises known as 1608 New Hampshire Avenue, N.W. It is in an SP-1 District.

2. The subject site is rectangular in shape with forty-four feet of frontage on New Hampshire Avenue. The site contains approximately 4,565 square feet of land area. The site is flat and is improved with a brick structure containing three stories in the front and a two-story brick addition at the rear, both constructed in 1903. The structure contains 5,400 square feet of gross floor area, a floor area ratio of 1.2, and is forty-eight feet in height. The site abuts a ten foot public alley at the rear.

3. The building is an existing non-conforming structure and has been devoted to uses other than residential for over seventeen years. The uses include professional offices, general offices for the Arab States Delegation, general offices for the Washington School of Psychiatry and as a clinic for humans. The site is currently used by the Owl School, a private elementary school for fifty children. The school intends to relocate at another site in the same neighborhood that will be more suitable for its educational program.

4. The applicant proposes to raze the existing rear portion of the building and construct another in its place. The front portion of the premises contains approximately

2,400 square feet of area and will be renovated. The applicant proposes to use the structure for offices permitted in the SP District. The applicant stated that over the twelve years it owned the property, the structure has undergone improvements to the interior and certain structural repairs and that the rear portion had been in the greatest disrepair.

5. The proposed addition will contain approximately 9,000 square feet of floor area and will occupy seventy-one percent of the lot. It will be four stories and fifty-two feet in height, approximately thirty-two feet wide and seventy-seven feet deep. The total floor area of the proposed redeveloped structure will be 11,413 square feet or an F.A.R. of 2.5.

6. The proposed addition has been designed to be compatible with the existing structure and structures in the neighborhood. Specifically, the addition will be approximately the same height and bulk as the two adjacent buildings and conforms with the Federal style of architecture which is predominant in the area. The attractiveness of the site will be further enhanced by the planting of trees and other landscaping features that will be provided. The adjacent structure at 1606 New Hampshire Avenue, south of the subject lot, is located on the common lot line with two court yards. The structure at 1610 New Hampshire Avenue, north of the subject lot, at the closest point is approximately one foot from the northern lot line of the subject property.

7. The site is located in the Dupont Circle area in an area including a mixture of professional offices, apartment houses, chanceries and embassies.

8. A traffic consultant for the applicant testified that the five parking spaces required by the Zoning Regulations were more than adequate to meet the parking demands of the proposed development. A study was conducted to determine the availability of on-street parking spaces for visitors and commuting employees. It was found that within a four minute walk of the site there are 1,184 on-street parking spaces, of which ninety-five percent were occupied. The number of spaces unoccupied was sixty-five during the peak hours of demand. Those spaces could be available to the one or two visitors to the subject site. It was found that five commercial parking garages were within a six minute walk of the site, and monthly leasing of spaces was available.

9. The traffic consultant also testified that when the nine by nineteen foot parking space requirement was adopted in 1958, the average width of an American car was 6.5 feet. Today, the average width is 5.5 feet.

10. The location of the property provides excellent access to public transportation. The Dupont Circle Metro subway stop is located within a three block walking distance. Dupont Circle also provides major access to bus lines running on Connecticut Avenue, Massachusetts Avenue, New Hampshire Avenue and 18th Street.

11. The subject site is located in the Dupont Circle Historic District. The Joint Committee on Landmarks has given the proposed development conceptual design approval. The Committee has determined that the existing addition does not contribute historically to the Historic District.

12. The proposed addition to the existing historic structure requires three area variances. The first variance is from the side yard requirement of Paragraph 4304.13 which states that no side yard is required for an office structure but that if one is provided, it shall be at least two inches for each foot of height of the building, but not less than eight feet. The applicant proposes to provide a four foot side yard which is identical to that which currently exists. A fifty percent variance is required.

13. The second variance is from the width requirement of an open court under Sub-section 4305.1 which states that where a court is provided for a non-residential building, the width of the court shall be a minimum of three inches per foot of height and in no case less than twelve feet. The applicant proposes to provide an eight foot wide court requiring a variance of four feet or thirty-three percent.

14. The third area variance is from Sub-section 7204.1 which requires parking spaces to measure at least nine feet by nineteen feet. The applicant proposes to provide five spaces that measure 8.8 by nineteen feet, requiring a variance of 0.2 feet on the width.

15. The architect testified that because of the narrow width of the subject lot, the five required off-street parking spaces can not be provided in a below-grade parking structure. The requirements of the Zoning Regulations for the width of a parking ramp, the turn-around, and turning radius necessary to maneuver could not be met.

16. A hydraulic elevator will be installed in the new addition which will eliminate the need for a full penthouse.

17. The architect testified that the minimum width of the addition for functional reasons must be thirty-two feet to allow for the interior layout of a double loaded corridor. The double loaded corridor will provide the most efficient use of space and exposure of office space to light and air. If the applicant had to conform to the yard and court requirements of the SP-1 District, a building width of only

twenty-four feet could be achieved, which would require increasing the height of the addition to recapture the lost F.A.R. Such an increase in height would be undesirable, since the structures height and scale would then be out of harmony in relation to neighboring structures.

18. The SP-1 District allows a lot occupancy of 100 percent. Seventy percent is provided. A rear yard of twelve feet is required and twelve feet is provided. Five parking spaces are required and five are provided. A maximum height of sixty-five feet is allowed and a height of fifty-two feet is provided. A maximum F.A.R. of 2.5 for non-residential uses is allowed, and an F.A.R. of 2.5 is provided.

19. A representative of the National Planning Association testified in support of the application. The Association is located at 1606 New Hampshire Avenue, N.W., adjacent to the subject site on the south.

20. A representative of the Washington School of Psychiatry, located north of the site at 1610 New Hampshire Avenue, N.W., testified in support of the application contingent upon the applicant shifting the proposed addition two feet to the south and the applicant agreeing to coordinate the landscaping of the subject site with the School's property. The applicant agreed to these two conditions subject to the Board's approval. The Board believes that the building shift is appropriate because there will be a better balance of distance, light and ventilation between the two adjacent buildings and the subject site. This shift will result in a four foot side yard on the north and a six foot courtyard on the south as shown on Exhibit No. 35A.

21. The Dupont Circle Citizens Association, and a resident of Corcoran Street appeared in opposition to the application on the following grounds:

- a. Residential uses is more appropriate for the site.
- b. The proposal doubles the existing building size on the site.
- c. There will be an increase in congestion on surrounding streets.
- d. The new addition will further reduce light and air to the rear yards of townhouses fronting on Corcoran Street.
- e. The applicant did not demonstrate a practical difficulty or that it would suffer an undue hardship, the basis for the relief requested.

22. Advisory Neighborhood Commission 2B by report dated September 15, 1982 recommended denial of the application for the following reasons:

- a. The structure was once used residentially and should be converted to a residential use.
- b. The proposed use is in conflict with the intentions of the mixed-use concept of the SP District.
- c. A precedent would be set for other developers to raze the rear portions of structures to increase office space.
- d. The applicant does not meet the requirements of Section 8207.11 for variance relief.

23. In response to the issues raised by the ANC, and the opposition, the Board finds as follows:

- a. Regarding the issue of reconverting the building to residential use, the Board finds that the applicant is not seeking a use variance, the test of which is to prove the subject property cannot be used for a permitted use for which it is zoned. The subject application is for a use which is permitted as a special exception under Paragraph 4101.44 with Board approval. Under the special exception relief the applicant has no burden to establish that the structure cannot be used for residential purposes.
- b. The Board disagrees with the contention that the proposed SP office use of the subject property is in conflict with the intent of the mixed-use concept of the SP District. The Board is of the opinion that the proposed use is totally consistent with the intent and purpose of the SP District in that the proposed development is compatible in use, scale and design with the transitional function of the SP District.
- c. The Board disagrees that a precedent would be set for other developers to raze the rear portions of structures to increase office space. This Board decides applications on a case-by-case basis and the merits of each case. Each case is decided with reference to the specific provisions of the Zoning Regulations. In addition, the subject property is located in the Dupont Circle Historic District which encompasses a large part of the Dupont Circle area. As such, the razing of all or part of any structure is subject to the approval

of the Joint Committee on Landmarks. Said Committee has approved the razing of the existing addition.

- d. The Board disagrees that the applicant has not met the requirements of Paragraph 8207.11 for variance relief. The applicant is requesting three area variances the test of which is to demonstrate a practical difficulty upon the owner arising out of some unique or exceptional condition of the property. The Board finds that the subject lot is exceptionally narrow for the type of structure at issue. The applicant clearly would suffer a practical difficulty in attempting to provide the required size off-street parking spaces, the minimum eight foot side yard and minimum court of twelve feet. The required number of off-street parking spaces is five, nine by nineteen foot, spaces. The subject lot is only forty-four feet wide and the five spaces would require a total width of forty-five feet. It is impractical and unreasonable to require structured or below-grade parking. The SP District allows a lot occupancy of 100 percent. There is no side yard requirement and if one is provided a minimum of eight feet must be provided. When an open court is provided in the SP District a minimum width of twelve feet is required. Strict compliance with the side yard and open court requirements would result in a building width of twenty-four feet. A structure twenty-four feet wide for office use is inefficient and would prevent the provision of light and air to all sides of the structure. Structures on adjoining property are exceptionally close. To provide the maximum building set back for the new addition without sacrificing building efficiency and design and to achieve a height and scale consistent with the historic character of the existing and nearby structure is the most desirable development scheme. To allow 100 percent lot occupancy would not only adversely affect the light and air of neighboring structures but the proposed structure as well.
- e. As to the loss of light and air to the rear yard of the Corcoran Street townhouses near the rear of the subject lot, the Board repeats the reasons cited in "d" above. The Board further finds that the structure at 1610 New Hampshire Avenue (Lot 141) is situated between the townhouse lots (1802 through 1810 Corcoran Street) and the subject lot. The adjoining building is four stories in height and is located along most of the northern lot line which is the rear lot line of the townhouses. The rear of Lot 141 narrows to a width of approximately

twelve feet. The subject lot at its closest distance to the rear lot line of the townhouses is approximately ten to fifteen feet. The proposed addition is set back from its rear lot line approximately seven feet and is providing a side yard along the northern lot line of six feet. The proposed addition extends beyond the structure on Lot 141 at the rear by approximately twenty-two feet. The proposed addition could be constructed from lot line to lot line making the structure six feet closer. The height of the proposed structure is thirteen feet less than the maximum permitted height. The Board finds that it is more desirable to provide a reasonable set back and height to maximize the amount of light and air to adjacent or nearby property rather than build on the lot line or setback further and build higher.

- f. The proposed addition will double the size of the existing structure. The maximum permitted F.A.R. for non-residential uses in the SP-1 District is 2.5 and a 2.5 F.A.R. is provided. The proposed height of fifty-two feet is well below the permitted height of sixty-five feet. The Board finds the proposed addition is within the permitted F.A.R. and height of the SP-1 District.
- g. The Board finds that the proposed development will not create dangerous or objectionable traffic conditions on surrounding streets. The applicant is providing the required number of off-street parking spaces. Public transportation is adequate in the area. Curb parking is available on surrounding blocks as well as commercial parking garages.

23. There were letters in support of the application in the record indicating that the proposed development was compatible with the community in use, height, bulk and design.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking one special exception and three area variances. With regard to the special exception, the applicant must prove that it has complied with the requirements of Sub-section 8207.2 and Paragraph 4101.44 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof, and the proposed use meets the specifications of the Zoning Regulations. The use, height, bulk and design of the structure will be in harmony with the use, as stated in Findings Nos. 4, 5, 6, 7, and 22. The use of the structure

for SP offices will not create any dangerous or objectionable traffic conditions. The application provides five-off-street parking spaces and the subject property is well served by bus and subway as stated in Findings Nos. 8, 9, and 10.

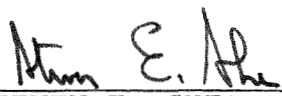
With regard to the three area variances, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner, the Board concludes that the subject site is unique and affected by several unusual and exceptional circumstances. The Board notes that the site is developed with an existing non-conforming structure. The site is non-conforming as to side yard and court yard. The site has a very narrow lot width. The property is an historic structure subject to design review pursuant to D.C. Law 2-144. The Board concludes that there is a practical difficulty in renovating the site to be compatible with the neighborhood because it is an existing historic structure on a narrow lot. The Board notes that the applicant's side yard and court yard proposed on the revised site plan improves the existing non-conforming conditions as stated in Finding No. 22. Both the side yard and the court yard will be increased in size. The lot's width of only forty-four feet prevents the applicant from providing five nine by nineteen foot wide parking spaces. The Board further concludes that strict application of the Zoning Regulations would impose a practical difficulty upon the applicant and that the elements necessary to grant the area variances are inherent in the property.

The Board further concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. The Board also concludes that it has addressed the issues and concerns of the ANC and that it has thus accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED subject to the CONDITION that construction be in accordance with Exhibit Nos. 26A, 29 and 35A of the record.

VOTE: 3-1 (Walter B. Lewis, Connie Fortune, Douglas J. Patton to grant; Charles R. Norris opposed to the motion; William F. McIntosh not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAR 11 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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